

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:06CR4**

UNITED STATES OF AMERICA,)	SECOND
)	SCREENING
Vs.)	ORDER
)	
TERENCE HOWARD ROACH.)	
_____)	

THIS MATTER is before the court upon defendant’s Revised Motion to Suppress (#23). In accordance with Rules 12(b)(3)(C), 12(d), and 47, Federal Rules of Criminal Procedure, the court has conducted an initial screening of such motion and made the following procedural determination(s):

- ☐ The Motion to Suppress is **DENIED** without prejudice based on a lack of a jurisdictional statement as to defendant’s standing to seek suppression.
- ☐ The Motion to Suppress is **DENIED** without prejudice for the lack of submission of a supporting affidavit.
- ☐ The Motion to Suppress is **DENIED** without prejudice for the lack of citation to legal authority.
- ☐ The Motion to Suppress is **DENIED** without prejudice for lack of statement of the issue presented.
- ☐ The Motion to Suppress is **DENIED** without prejudice for lack of filing a memorandum of law in support of the motion.
- ☐ The Motion to Suppress is **DENIED** without prejudice for lack of filing a copy of necessary documents. In this case, defendant has cited the court to affidavits and other materials that are not contained within this captioned case and materials that are contained in the government’s file. Defendant is advised that the court has no ability to retrieve the government file or move documents from one court file to another. This is typically accomplished through attaching “Exhibits” to a motion or memorandum of law.

- √ The government shall **FILE A RESPONSE** to defendant's motion within **FIVE (5) DAYS** of receipt of this Order. There shall be no reply brief.
- The Motion to Suppress is **CALENDARED** for **ORAL ARGUMENT** only on _____, _____, 2006, at 2 p.m. in Asheville.
- √ The Motion to Suppress is **CALENDARED** for an **EVIDENTIARY HEARING** and **ORAL ARGUMENT** on March 27, 2006, at 2 p.m. in Asheville.

Defendant is advised that this is not a final Order, and any motion herein denied without prejudice may be corrected and re-filed as a new motion within five (5) days of receipt of this Order regardless of whether the pretrial motions period has expired. 28 U.S.C. § 636(b).

Counsel for defendant has advised in footnote one of the revised motion that he has "endeavored to obtain a transcript for this hearing [1/30/2006] for the purposes of attaching to this motion to no avail." The court has contacted the official court reporter who advises that no "Transcript Order Form" has been submitted by counsel and that counsel would, in any event, need to submit a CJA form to the district court for approval of that expense. If defendant desires the court to consider such transcript, defendant must submit such a transcript before March 27, 2006.

Signed: March 13, 2006

_____

Dennis L. Howell
United States Magistrate Judge

